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A Letter to a Friend:
Occasion'd by the
CONTEST
B E T W E E N
The Bishop of E X E T E R,
A N D
Mr. H O A D L Y.



THE
CROWN
AND
TAXES
IN
THE
BRITISH
EMPIRE
AND
COLONIES
FOR
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Letter to a Friend:

Occasion'd by the

C O N T E S T

Between the

Bishop of *EXETER*,

A N D

Mr. *H O A D L Y.*

L O N D O N:

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LETTER

TO A

FRIEND, &c.

SIR,

WHEN Men Contest any Point, they should take particular Care, that the Case upon which that Point arises, be truly Stated : For otherwise they may for ever Argue to no Purpose.

There are it seems Two different Opinions about the Origin of Government ; not the Primary Origin, but the Origin in This or That Place. Some affirm it in the People ; and those of that Opinion, I know not why, infer, That upon a Male-Administration, which is a Breach of Trust re-

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pos'd in the Administrators, the People may by Force change their Trustees. This Inference directly tends to Anarchy and Confusion; it makes all Governors mere Tenants at Will, and liable to be turn'd out whenever their Lords and Masters the Mob please, by making them Judges of Right or Wrong, and Executioners of their own blind Judgments; so that if they say the Fox's Ears are Horns, the Fox must quit the Forest.

Those of the other Opinion affirm the Original of all Government from God; and thence some of them infer, That in no Case Resistance to Kings is allowable, because it is to resist the Ordinance of God; and therefore let Kings act as they please, the Governed have no more to do, than humbly submit and obey. This Inference directly tends to make the Power of the Prerogative Absolute and Uncontrollable, and all our Liberties and Properties subject to that disposing Power according to the mere Will and Pleasure of the Crown; as it is in those Places where Kings are Absolute. Admit then Either of their Foundations true, yet in our Government Both the Inferences

ferences are dangerous and false. And that Gentleman, who writes himself *Student of the Temple*, in Compliment only, I presume, to that Society, that such an Unanswerable Man would write himself one of them, acted a cunning part in pitching upon an ignorant *Hotontote* to be confounded by his unanswerable Arguments; for had he directed his Discourse to the Learned Society of the *Temple*, they would have told him he had not yet read enough to be a Writer in Print. It ought to be agreed upon on both Sides, That the whole Governing Part in all Governments whatever, is Absolute and Arbitrary; and should the Laws of the whole Governing Part be ever so grievous either in Ecclesiastical or Civil Matters, the Governed, at the Peril of their Salvation, must yield either Active or Passive Obedience: For could we suppose a Government without an Absolute Uncontrollable Power, there must be a perpetual Circuitry, and never any End of Differences, or any sure or certain Settlement of any thing, and so all things would naturally be in perpetual Confusion.

Again, It must not be deny'd, That all Political Power is from God; yes, and so is the Natural too. But then we must con-

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sider, that these Powers are not immediately from God, but immediately from Second Causes. When we say God made us, we don't mean immediately created us as he did *Adam*: So when we say all Governing Powers are from God, we don't mean immediately by God's Creation, as those Kings were which God anointed by his Prophets. If therefore we will enquire into the Origin of this or that Government, we must look for the immediate Origin among Second Causes; which can be but Two, either Force, or Consent, or partly one, partly t'other. Where the Government obtain'd by Force is establish'd by a long Possession, it becomes lawful, and cannot lawfully be oppos'd: Where it is establish'd by Consent, it is immediately lawful, and cannot lawfully be oppos'd. And what makes the Power of Life and Death in the hands of the Governing Part, when no Man has Rightful Power over his own Life, and therefore cannot give what Power he has not, is this; A Man, 'tis true, has not Rightful Power over his own Life, because he himself is the whole Body, and it's against the Law of Nature for the whole Body to destroy it self: But he has Power over his Members, and may, and ought to cut off a Gangreen'd Leg or Arm
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in Preservation of the rest of the Body : And for the same Natural Reason is the Power of Life and Death in the Hands of Governors : The Governed are but Members of the Body Politick ; and Evil Members are by the Law Natural to be cut off in Preservation of the Sound Parts : So that this Power is not vested in Governors by any Gift of the People , or because the Power of Governors is from God ; but because it is a Natural Power of Government.

These Things premis'd, I come to consider the Nature of our Government, which consists of Three distinct Constituent Parts, King or Queen, Lords, and Commons : These Three united are Arbitrary and Uncontrollable ; Accountable to None but God : And therefore should they establish Heresy for the true Faith, or any Wrong for Right, there is no Remedy, we must yield an Active or Passive Obedience to all their Commands, whether reasonable or not ; They are the whole Power ; and the whole Power is not to be oppos'd upon any Pretence whatsoever.

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These Three Constituent Parts have Three distinct and separate Powers, as well as one United Power ; and place the Origin of Power where You please, Their distinct and seperate Powers had all the same Origin with their United Power ; and the Power of the Two Houses stands upon the same Bottom, as the Power of Kings stands.

The Crown is the Supreme of these Authorities ; and in some Cases the Crown is the whole Power of the Kingdom : As for Instance ; the Power of making Peace or War is entirely in the Crown, so is the Executive Part of the Law : But then to restrain this Power, even where it is Absolute, from Exerting it self to any thing Unreasonable or Unjust ; There is, First as to the making an Unreasonable War, no Money to be Rais'd for Carrying on this War, or for any thing else, without the House of Commons. In the next Place , to Redress Erroneous Judgments or Decrees, upon which Executions would follow ; those Judgments or Decrees made by the Queen's Courts, may be revers'd by an Appeal to the House of Lords, which is the Supreme Court of Judicature,

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dicature, and from whence no Appeal lies to the Crown : For where Kings are not the whole entire Power, the Case of *Meum* and *Tuum* is often disputed between the King and the Subject : Subjects of such Kings are not tamely to submit and give up their Rights, because the King will have those Rights ; and if the last Appeal should lie to the King, then would the King be Judge in his own Cause. Therefore the wise Laws in this Kingdom, which cannot be made or repeal'd, but by the United Power of the Three Constituent Parts of Government, which therefore are equally Obligatory upon Prince and Subject, have provided, That the Judges, who act even by the Crown's Commission, shall give Judgment according to Law in all Controversies between the Crown and the Subject ; and this way the Crown is controul'd even by those who act by the Crown's Commission ; and I hope not at the Peril of their Salvation : And if Judges shall make an Erroneous Judgment, the Aggrieved may be Redres'd by Appeal to the Lords ; from whom no Appeal.

From these Considerations arises that Maxim of our Law, That the King can do

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no Wrong ; He is restrain'd from so doing by the other Constituent Parts ; and by the Judges who act under the King's own Commission : Whilst therefore the Three Constituents stand secure in Their distinct and separate Powers, the Governed can have no justifiable Reason of Publick Complaint, much less of Resistance : Because They have no Laws made or repeal'd but by these Three Powers United; and their Acts are the Acts of the whole Nation : So if the People complain , they complain of their own Acts. Whether therefore the Administration be in it self Good or Bad, it must be peaceably obey'd, Actively or Passively : And Those who teach, that upon a Male-Administration, because Governors are set over Us for Good , the People may Complain and Rebel ; teach a Doctrine contradictory both to the Laws of God and Man : To tell the People They are the Last Judges of Right and Wrong, and may by Force Redress what They may either think Wrong, or what is in its own Nature Wrong , tho' the full Authoritive Power has Decreed it for Right, is to act the part of an utter Enemy to all Governments, and to Trumpet up Rebellion and Madness.

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On the other Side, Those, who in this Kingdom Preach up Absolute Submission in every thing, tho' ever so Illegal, to the King as Supreme, teach a Doctrine which strikes at the very Foundation of our Government : Which therefore stands condemn'd, not justify'd by God's Law. Kings, They say, have their Commissions from God, and to Oppose the Actors who act under such a Commission, is to Oppose the Ordinance of God : But suppose they act beyond the Commission God has given Them; the Refusal of Obedience then is no Resistance to the Ordinance of God. Whilst Kings keep within the Limits of their Commissions, whether They Execute Right or Wrong, They must be obey'd ; but their Commands beyond their Commissions are not Obligatory, any farther than they are Reasonable ; the Reasonableness whereof He that is commanded is Judge.

Now it is not within the Crown's Commission to Raise Money, unless first Voted and Consented to by the Commons ; Not to Reverse Judgments made by the Lords upon Appeal ; Not to Make or Repeal Laws without the conjoin'd Authority of both

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both Houses. These are manifest Limits to the Crown's Commission and Authority; and if the Crown will break over these Limitations, the Crown does not only act without Commission, but also in Opposition to the Commissions of both Houses; whose Commissions are as much the Ordinance of God as the Crown's? All their Commissions stand upon one and the same Bottom, made by the same Power.

When therefore Men will teach universal Obedience to the Crown, notwithstanding those Commands should be contradictory to the known Laws and Constitution of our Government, they don't teach Obedience but Disobedience to the Ordinance of God. Must the Two Houses at the Crown's Command lay down their Commissions and Authorities, at the Peril of their Salvation? When this Spur is apply'd to a Prince of Natural Ambition to be Absolute and Arbitrary, or of a Mind to Subvert the Government for the compassing some design'd Ends; no wonder if the Attempt be made, when no ordinary Means, nothing but a Miracle must prevent Success. Nothing in this Case, humanly speaking, has sav'd our Government, but the People's having more Sense than

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than to believe every thing they were taught : So the Natural Consequences of this Doctrine, as it is preach'd in an unlimited Latitude, are either Subversion of the Government as establish'd, or instead of Suppressing, is the Foundation of Rebellion.

They are foolishly timorous, who fear a Rebellion in this Kingdom, whilst the Three Constituent Parts of our Government preserve their distinct and separate Powers : But when one Part is taught how to encroach upon and swallow up the other, Endeavours so to do alarm the Natural Power to a Support of their Government : Hence all our Rebellions. And unless the Natural Power had in that Extremity supported our Government, our Two Houses had been of no more Consideration here, than Parliaments are in *France*, which once had Power, but like Fools have lost it.

Christ enjoins us to *render to Cæsar the things which are Cæsar's*; but where does he enjoin to render to *Cæsar* the Things which are not *Cæsar's*? And what are, and what are not *Cæsar's*, the Constitutions and Laws of Governments determine.

mine. For this Reason, the Proceedings touching Ship-Money were by all the Three Constituents declar'd unlawful and void, because they were contrary to, and against the Laws and Statutes of this Realm, the Right of Property, and the Liberty of the Subject. Suppose then after this Declaration of Parliament, the Crown had continued Levying of Ship-Money; those who refus'd Obedience, had not resisted any Ordinance of God, nor had they made themselves Judges of Right and Wrong; because such Proceedings were determin'd wrong even by the King himself, and the rest of the National Authorities. And so in other Cases, where the full Authoritive Powers have decided.

But what the Gentlemen for Universal Obedience stand chiefly upon, are these Acts of Parliament, which declare the *Militia, and all the Forces by Sea or Land, in the King; and that neither or both of the Houses can pretend to the same, nor can lawfully raise or levy any War Offensive or Defensive against his Majesty, &c.* And there is another Act for Securing his Majesty's Person, *That none invent, &c. Death or Destruction, or any Bodily Harm tending to Death or*

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or Destruction, Maim, or Wounding, Imprisonment or Restraint of the King's Person, or to Deprive or Depose him from the Stile, Honour, or Kingly Name, from the Imperial Crown of this Realm, or to levy War against his Majesty within or without this Realm, or to move and stir any Foreigners or Strangers with Force to invade this Realm, &c. All which Laws are undoubtedly obligatory.

But First, All Resistance is not by Force of Arms: A Refusal of Obedience, and regularly disputing or contesting the Point, is Resistance; and so far, if the Prerogative will infringe the Rights of the Two Houses, they may Resist: But they cannot by their Authority justify raising Forces; because they have no such Commission. And whilst the Laws are open, and the Constituent Parts of Government preserve their Distinct Powers and Authorities, Resistance by Force is in no Case allowable; because the Aggrieved may have Redress by due Course of Law.

Nor can the Crown make use of the Militia, or any other Forces entirely under the Crown's Command, to break into

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the Constitution of the Government, or to execute Illegal Proceedings : For in such Cases the Crown's Private Commands would be contradictory to the Crown's Publish'd Legal Commands, which cannot be superseded or revok'd by the Crown's Single Authority : To which then of these Commands must be added the Sanction of Damnation ? For Both cannot be obey'd. So that the use of Force either by the Crown or the People, beyond what the Law allows, are equally unjustifiable ; and if neither of them use unjustifiable Force, there will never be a lasting Reason of Complaint on either Side. But when unjustifiable Force is us'd, and is no other way repellable but by Force, I know no Law against Repelling such Force with Force.

But in the Case of a Breach of the Government, as where one of the Constituents assumes the Right and Authority of the other Constituents ; upon which the Natural Power exerts it self ; yet, if in that Case the Natural Power is justifiable, it is not so to destroy or hurt any of the Constituents, but to save and preserve them, to fix and settle the shaken Constituent

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uent Parts in their Rightful Power and Authority : For if the Natural Power should destroy or hurt any of the Constituents, that Power would commit what it self condemns, and makes War against. The Breach in the Government made by the Constituents usurping each other's Authority, is not a Dissolution of the Government ; the Rights of the Constituents are not by such a Breach extinguish'd ; they are all, notwithstanding, the same Governing Parts *de Jure*, though not *de Facto* ; and therefore not one of them can be justly hurt, much less destroy'd, upon any Pretence whatsoever.

By this Light, every Man that will, may plainly see the Difference between the Case of King *Charles the First*, and King *James the Second* : No body pursued the Life of King *James*, or endeavour'd to hurt, imprison, or dethrone Him. The whole Design of the Natural Power, and of the Assistance of that Power, was only to preserve the Laws, and keep the Government upon its right Basis ; which by taking away Charters, by *Non-obstante* Proceedings, by Closeting, and a stand-

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ing Army, were shaken and broke : And every one, that consented to the Design either before or after the Execution, must allow the Design justifiable, or must condemn themselves of equal Guilt with the Actors : And those who did not consent to the Design, do manifestly condemn King *William's* Reign as Usurpation. This End and Design, King *James* by flying, tacitly confess'd was not to be effected or compass'd whilst a Papist sat upon the Throne ; and his Abdication gave just Cause to set another Prince in his Seat : For the Body could not subsist without an Head.

But in the Case of King *Charles* the First, tho' that Rebellion was rais'd up on the Pretence, at least, of his Encroachments upon the just Rights of Parliament ; (for upon no other Pretence are we made miserable by Rebellion;) yet admit that Pretence just and true, the Natural Power notwithstanding was deluded into the Breach of the known Laws of God and Man, by being Deaf to all Proposals of Accommodation, and to as large Concessions as could in all Reason be requir'd or expected; which was

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was the only End for which the Subject pretended to Rebel ; by laying violent Hands upon his Majesty's Sacred Person, which upon any Account was horrid and unjustifiable in the highest Respect. If as the Disorder complain'd of did entirely lie in the Head ; that Physician, who to rectify a Disorder in the Head, will cut the Head off, deserves no less than an Halter for his Fee.

S T R

Here is Room enough for the declaiming Gentlemen to expose and condemn the Proceedings in the Case of King *Charles the First*, without bringing both the Kings Cases under the same Condemnation, as their Preachments generally do. Our Duty and Obedience to Governors is greater or less, according to the various Legal Powers of Governors ; and therefore the Measures of that Duty and Obedience are the Constitutions and Laws of Governments : God's Laws, in that Case, are not the Measures of Obedience, but the Criteria when that Obedience is to be Active, when Passive. Let the Obedience of Subjects be

be in every Thing commanded by the Laws of the Land, and then they have paid their utmost Obedience to Governors requir'd by the Laws of God.

Thus I have, as briefly as the Nature of my Subject would permit, deliver'd my Thoughts; and am

SIR,

Your Humble Servant,

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M. S.

F I N I S,